

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-590

In Re: DEREK DION CURTIS, I,

Petitioner.

On Petition for Writ of Habeas Corpus.

Submitted: March 18, 1997

Decided: March 31, 1997

Before MURNAGHAN and HAMILTON, Circuit Judges, and PHILLIPS, Senior
Circuit Judge.

Petition denied by unpublished per curiam opinion.

Derek Dion Curtis, I, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Derek Dion Curtis, a federal prisoner, petitions this court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 (1994). Curtis alleges that he was never indicted by a grand jury and never waived indictment and that court officials, the Assistant United States Attorney, and the federal public defender conspired to use a bogus indictment to prosecute him.

A court will not entertain a § 2241 petition unless a motion pursuant to 28 U.S.C. § 2255 (1994), amended by Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214, is "inadequate or ineffective to test the legality of [an inmate's] detention." See Swain v. Pressley, 430 U.S. 372, 381 (1977). The petitioner bears the burden of showing the inadequacy or ineffectiveness of a § 2255 motion. McGhee v. Hanberry, 604 F.2d 9, 10 (5th Cir. 1979).

As in his previous § 2241 petition in which he raised identical claims, Curtis has failed to present any facts showing that § 2255 is an inadequate remedy. See In re Curtis, No. 95-8059, 1995 WL 538976 (4th Cir. Sept. 12, 1995) (unpublished), cert. denied, ___ U.S. ___, 64 U.S.L.W. 3485 (U.S. Jan. 16, 1996) (No. 95-7104). Curtis' conclusory allegations that the district court and the prosecutor used a bogus indictment do not establish that the remedy under § 2255 is inadequate or ineffective. See McGhee, 604 F.2d at 11.

Accordingly, we deny this petition. Curtis' motions for immediate adjudication and for bail pending a decision are now moot and

are denied for that reason. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED